



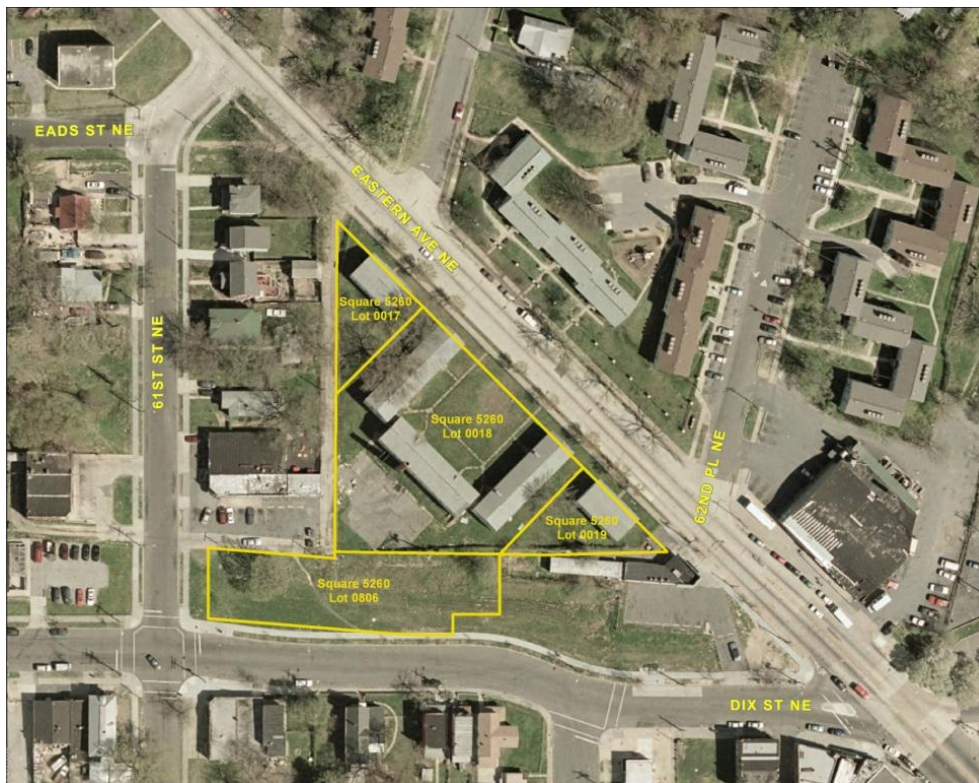
Government of the District of Columbia

**Office of the Deputy Mayor for
Planning and Economic Development**

SOLICITATION FOR OFFERS

FOR THE DEVELOPMENT OF

**400-414 Eastern Avenue, NE (Square 5260, Lots 17 – 19)
and Dix Street, NE (Square 5260, Lot 806);**



Issued by:

The Government of the District of Columbia
Office of the Deputy Mayor for Planning and Economic Development

John A. Wilson Building
1350 Pennsylvania Ave NW, Suite 317
Washington, D.C. 20004

<http://dcbiz.dc.gov/>

Responses due by: December 1, 2008

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Office of the Deputy Mayor for Planning and Economic Development

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The Government of the District of Columbia (“District”), through the Office of the Deputy Mayor for Planning and Economic Development (“ODMPED”), invites development teams to respond to this Solicitation for Offers (“Solicitation”). The purpose of the Solicitation is to identify development teams who have creative vision, demonstrated experience in developing mixed-use and mixed-income affordable for-sale housing projects, and organizational and financial capability to plan and develop two District owned sites into Nehemiah Housing. The sites should be developed to provide high quality affordable for-sale housing opportunities for residents in a mixed-income development in accordance with the Mayor’s affordable housing policy goals and the District’s New Communities Initiative objectives. Responses to this Solicitation are due by December 1, 2008 at 4:00 EST.

1 INTRODUCTION

Great urban neighborhoods are made up of diverse populations, extensive housing choices, neighborhood amenities, walkable shopping areas, distinctive public spaces and superior mass transit. Opportunities for redevelopment in the city's neighborhoods are opportunities to increase diversity, add amenities that currently do not exist, and improve the quality of life for residents. **The Mayor’s goal for every District development opportunity is to provide existing neighborhood residents and businesses opportunities to directly benefit and participate in projects in their neighborhood.**

With these goals in mind, the District is pleased to solicit offers from accomplished development teams (“Offerors”) to participate in the development of two District owned properties into Nehemiah Housing opportunities for residents earning between \$25,000 to \$75,000 annually. The units will accommodate residents who meet the income target as well as provide homeownership opportunities for residents of the Lincoln Heights and Richardson Dwellings neighborhoods in accordance with the Lincoln Heights and Richardson Dwellings New Communities Initiative Revitalization Plan (“Lincoln Heights Master Plan”).

1.1 Purpose of the Solicitation for Offers

The Office of the Deputy Mayor for Planning and Economic Development is responsible for implementing housing and economic development initiatives and policies on behalf of the Mayor of the District of Columbia. ODMPED has two development options potentially available through this Solicitation, for a comprehensive development project.

The Office of the Deputy Mayor, on behalf of the District invites highly qualified development teams with demonstrated experience and commitment to delivering mixed-income and mixed-use development projects, to respond to this opportunity to provide a catalytic homeownership (condominium and/or townhouse) development that will aid in the revitalization of this northeast corridor in the Deanwood community of Ward 7.



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The District intends to identify a single Offeror/development team with whom to enter into negotiations for the disposition, either through sale or a ground lease for 400 – 414 Eastern Avenue, NE (Square 5260, Lots 17 – 19) and Dix Street, NE – Square 5260, Lot 806). The District seeks development teams experienced in working with multiple municipal entities and community stakeholders in a transparent and collaborative process, to implement the larger community's vision and the goals and needs of the District for the larger site. **The District will look very favorably at Offerors who demonstrate the ability to bring additional development resources to the table. Offerors are encouraged to maximize development on the site, including using adjacent parcels under the bidder's control to create a larger development footprint.**

Offers submitted in response to this Solicitation should incorporate the goals of the Mayor's affordable housing policy and the District's New Communities Initiative as well as the objectives of the Deanwood Strategic Development Plan (Draft October 2007).

1.2 Neighborhood Context

Deanwood is one of Washington, DC's oldest communities; much of its housing stock dates from the early 20th century. Several well-known African-American architects, including W. Sidney Pittman and Howard D. Woodson, and many skilled local craftsmen designed and built homes in this community. The neighborhood was once home to Nannie Helen Burroughs, an early civil rights leader and the founder of the National Training School for Women and Girls, an independent boarding school for African-American girls founded in 1909 and located on 50th Street NE. from 1921 to 1940. Deanwood was also home to Suburban Gardens (50th and Hayes NE), a black-owned amusement park that served thousands of African-American residents during a time of racial segregation.

Over the past 40 years however, much of Deanwood has suffered from disinvestment, that's caused the residences and commercial corridor along Nannie Helen Burroughs to struggle. In an effort to eradicate the blight and underinvestment, the District government, working with the community, created several immediate and long range revitalization efforts. The goal of each plan is to revitalize the housing and commercial stock, increase homeownership opportunities, and improve the human capital assets within Deanwood. Specifically, there are two plans that relate directly to these goals and objectives.

These plans include the following:

1.) Lincoln Heights and Richardson Dwellings New Communities Initiative Revitalization Plan

<http://planning.dc.gov/planning/cwp/view,a,1285,q,639012.asp>



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2.) The Deanwood Strategic Development Plan – Draft October 2007 – (“Deanwood Plan”)
<http://planning.dc.gov/planning/cwp/view,a,1285,q,641091.asp>

A. Nehemiah Housing Program

The Nehemiah Housing Program builds homes for households earning between \$25,000 and \$75,000 annually. One of the Program’s most recent projects is the DuPont Commons development on Ridge Road and C Street, SE. DuPont Commons, delivered in 2005, is a 147-unit affordable single family townhouse project which targeted the District’s workforce population. Former District of Columbia housing authority residents in addition to other households earning roughly \$25,000 annually presently own homes within this development along workforce homeowners. DuPont Commons received the 2005 Readers’ Choice Award for Best Homeownership Development and Affordable Housing Finance in addition to the Housing Association for Non-Profit Developers (HAND) Award for Best Development in Washington, DC.

B. The New Communities Initiative

In 2006, the Lincoln Heights and Richardson Dwellings public housing developments were designated “New Communities” under the Mayor’s New Communities Initiative. This initiative is a comprehensive partnership designed to improve the quality of life for families and individuals living in District neighborhoods in need of investment and revitalization. The Initiative is a District-sponsored redevelopment of the physical and human architecture of neighborhoods troubled by concentrations of violent crime and poverty. The residents in these neighborhoods face many challenges, such as a lack of education, lack of access to quality job training, high unemployment, lack of viable housing options, lack of affordable homeownership opportunities, and a lack of businesses and institutions needed to sustain the community.

The New Communities Initiative will address these conditions by transforming highly concentrated low-income neighborhoods into healthy mixed-income neighborhoods that protect housing for low-income residents with a one- for-one replacement of existing affordable housing and introduce or rejuvenate existing community anchors such as schools, parks, and health and recreation centers. Equally important, the New Communities Initiative focuses on resident redevelopment through linkages to job training, asset building, counseling and other supportive human services.

The District is calling for an investment of over \$500 million for the redevelopment of the Lincoln Heights and Richardson Dwellings New Community to create new housing, retail, offices and community amenities.



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C. Deanwood Strategic Development Plan

In early 2006, the Office of Planning, in conjunction with the Office of the Deputy Mayor for Planning and Economic Development and the District Department of Transportation (DDOT) was charged with creating a plan for Deanwood as part of the Great Streets Initiative. The primary purpose of the Deanwood Strategic Development Plan is to document the community's vision for Deanwood and provide clear policy direction for land use and development within the neighborhood and its major corridors.

The Deanwood Plan project area consists of Eastern Avenue to the Northeast, 55th Street NE to the East, Marvin Gaye Park to the South, and Kenilworth Avenue/CSX railway to the West. Contained within the project area are Nannie Helen Burroughs and Minnesota Avenues, both of which have been identified as Great Streets. This plan combines community aspirations with professional research and analysis to set a framework for how Deanwood will improve over the next ten years and beyond with the proposal of future land use and development guidelines.

2 SITE OVERVIEW

2.1 Nehemiah Housing Development Opportunity

The District is considering the following development scenario for the Nehemiah Housing development program.

Development Scenario:

Parcel	Property Street Address	Square/Lot	Land Area
Parcel 1	400 – 414 Eastern Avenue, NE	5260/17, 18 and 19	50,644 SF
Parcel 2	6100 Block of Dix Street, NE	5260/806	20,186 SF

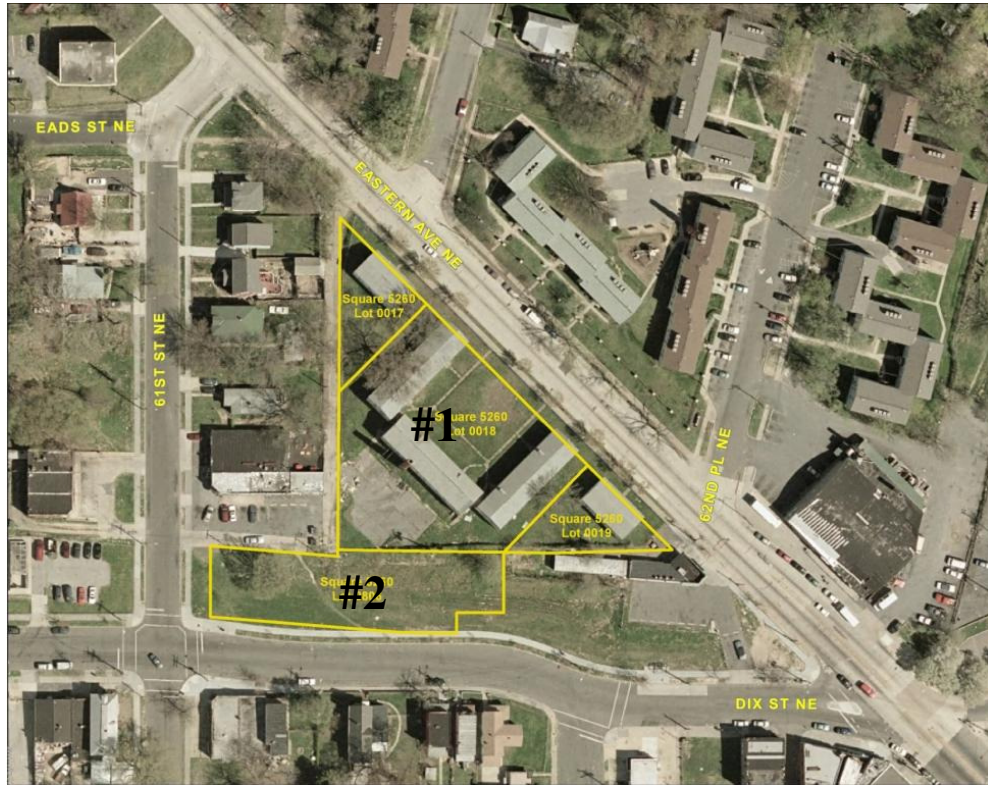
Total Land Square Feet: 70,830 SF



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Map of Development Scenario



Development Scenario: Parcel 1 – 400 - 414 Eastern Avenue, NE

ODMPED is seeking to transfer ownership of 400-414 Eastern Avenue, NE – (“Eastern Avenue Residential Property” or “Parcel 1”) to a development team that will demolish the existing eight (8) 4-unit flats and comprehensively redevelop the site by combining the parcel with Parcel 2 to complete the project in keeping with the goals set out in this Solicitation.

Parcel 1 is legally identified for taxation purposes as Lots 17, 18 and 19 in Square 5260. The property is improved as a grouping of eight (8) walk-up, 2-story flats. Lot 18, the central, larger lot is improved with six (6) 4 unit flats, built in a “U” shaped, courtyard setting whereas lots 17 and 19 are improved with single, 4-unit detached structures. The buildings are addressed as 400/402-412/414 Eastern Avenue, NE, Washington, District of Columbia.

The complex contains a (total) land area of 50,644 square feet (or approximately 1.163 acres of land area) and is improved with thirty-two (32) apartments containing a Gross Building Area of 24,136 square feet. Parcel 1 is located within the extreme eastern sector of



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the Deanwood neighborhood of “Far” Northeast Washington, DC, along the District of Columbia/Maryland boundary line.

As a contiguous parcel, the site is basically triangular-shaped, having a combined frontage along the west side of Eastern Avenue of 446 feet, extending to a depth along the southern boundary line of 313.41 feet.

According to public records, the land areas of the respective Lots are as follows:

Lot #	Land Area (SF)
17	6,626
18	37,752
19	6,266
	Total - 50,644

The buildings, to comprise Parcel 1, were constructed circa 1945 and in general are structurally sound. The buildings are presently in a “shell” state of condition with the general condition inferior to that found in an original interior inspection of the property on June 8, 2001. The Appraisers note that the buildings have remained vacant since the last inspection and no property improvements have been conducted. As noted in the original inspection, the buildings were observed to have suffered substantial physical depreciation and deferred maintenance. The noted damage incurred within the structures apparently resulted to a large degree from acts of vandalism after the buildings became vacated. Further interior damage, as an indirect result of incurred vandalism, was noted in the form of water infiltration damage to walls and floors resulting from missing windows and doors.

Due to the structural status of the property in the R-5-A zoning district, reuse of the existing structure is not encouraged. ODMPED envisions a comprehensive redevelopment of the walk-up apartment buildings along with the other properties noted in this Solicitation.

If an Offeror owns or otherwise controls any parcels within or adjacent to Parcel 1, Offeror may also include such parcels in its development plan submitted with its Offer; however, Offeror must provide with its Offer evidence of its control over such parcels, by providing a copy of an executed, unconditional valid contract or a deed.

Development Scenario: Parcel 2 – Dix Street, NE (Square 5260 Lot 806)

ODMPED is seeking to transfer ownership of a vacant site, zoned C-2-A, containing 20,186 square feet of land area located along the 6100 Block of Dix Street, NE (“Dix Street Property” or “Parcel 2”) to a development team that will comprehensively redevelop the entire site (along with the other two sites noted in this Solicitation) while keeping with the goals set out in this Solicitation.



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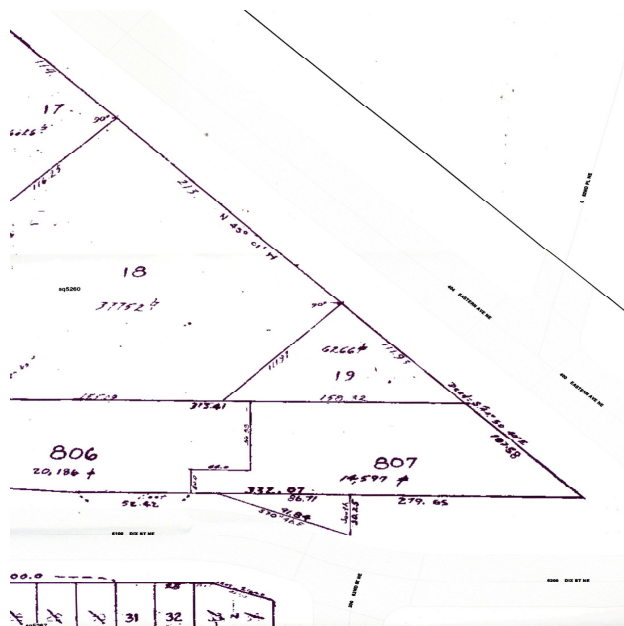
Parcel 2 is legally identified as Lot 806 Square 5260. This lot is zoned C-2-A and is a slightly irregular-shaped, interior parcel, containing 20,186 square feet of land area. The lot has frontage of approximately 270 feet along the 6100 Block of Dix Street, NE. The site extends to a “norm” depth ranging from 60 to 70 feet. A 15 foot public alley runs adjacent to the west sector of the lot.

Parcel 2 is an interior lot with limited visibility restricting the commercial viability of the site. Dix Street along the subject’s frontage is a secondary artery that would be more conducive to residential development. The highest and best use of the site would be assemblage with Parcel 1 fronting Eastern Avenue (Lots 17, 18 and 19) to afford the site greater utility. The site could be developed with a townhouse or low density apartment structure consistent with the site’s R-5-A zoning.

Due to the vacant status of the property in the C-2-A zoning district, ODMPED envisions a comprehensive redevelopment of the site along with the other two properties noted in this Solicitation.

If an Offeror owns or otherwise controls any parcels within or adjacent to Parcel 2, Offeror may also include such parcels in its development plan submitted with its Offer; however, Offeror must provide with its Offer evidence of its control over such parcels, by providing a copy of an executed, unconditional valid contract or a deed.

A tax map of Square 5260, inclusive of both opportunity parcels, is included below.





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2.2 HUD Covenants

The Eastern Avenue Residential Property (Parcel 1) was a United States Department of Housing and Urban Development (HUD) held mortgaged property. The site was non-performing at the time of title transfer to the District of Columbia, and therefore, many of the provisions of 24 CFR remain effective after disposition of the property to the District of Columbia. To ensure compliance with applicable HUD requirements and that the property is used in the manner prescribed as conditions of the transfer, the property is encumbered by those covenants described in its Contract of Sale, and included in the Special Warranty Deed, dated September 17, 1996, recorded in the land records of the District of Columbia as Instrument No. 9600058416, as covenants running with land. The covenants are effective for 15 to 20 years from the date of the Special Warranty Deed. The following notes the covenants that presently run with Parcel 1.

- Possibility of Reverter –Under Item 6 of Covenant 9, HUD [may] reenter the Property and terminate the estate (fee simple determinable) conveyed to the District of Columbia if the District or its successors and assigns have not completed the rehabilitation and development of the site. The site's redevelopment must adhere to the federal requirements pertaining to HUD's Section 8 Quality Standards and property improvements sheets within 18 months from the date of the Special Warranty Deed, unless written extensions shall have been provided by HUD.
- Use Restriction – The property must be maintained and used as rental or cooperative housing for twenty (20) years after the date of this Deed or anytime earlier as specified otherwise in writing by HUD, with no marketing during the property rehabilitation period for any use other than rental without the prior written approval of HUD.
- Disclosure of Additional Federal Assistance for the Property – If any additional federal, state or local assistance is received for operation of the Property, this must be disclosed to HUD and a reduction in the Section 8 subsidies in like amount will incur. This restriction terminates upon termination of the Section 8 HAP Contract for the Property.
- Subsequent Transfer of Property to Non-Public Entity – No transfer of property to non-public entity except through a public solicitation process approved in writing by the Grantor.



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- Lead Based Paint Hazards – Comply with all Lead Based Paint laws and regulations including applicable Uniform Relocation Assistance and Real Property Acquisition Policies Act.
- Indemnification of HUD – Subject to the Anti-Deficiency Act Restrictions, indemnify HUD for any losses or claim resulting from lead hazards.
- Failure to Comply with Lead Based Paint Regulations (24 CFR Part 35) – Failure to comply with the Lead Based Paint Regulations and laws could result in reentry of the Property by HUD.
- Equity Participation – Subsequent sale(s) of the property for value shall allow for a portion of the sales proceeds, minus allowed costs, including, but not limited to, transactional fees, cost basis, approved construction/rehabilitation costs, to be shared by HUD, as follows:
 - a. anytime with 15 years from the date of the Deed, 100 percent to HUD;
 - b. anytime between 16 years and 20 years from the date of the Deed, 75 percent to HUD;
 - c. anytime between 21 years and thirty years from the date of the Deed, 50 percent goes to HUD;
 - d. Anytime over 30 years from the date of the Deed, 25 percent goes to HUD.
- Refinancing of Any Indebtedness – Subsequent purchasers for value must obtain HUD's prior written approval of any refinancing or indebtedness placed on the property.
- Records Maintenance – The District and its successors and assigns as holders of title to the property must maintain accurate financial records, pertaining to refinancing, rehabilitation costs and sales costs.
- Maintenance of Property – All units have to be maintained in accordance with the HAP Contract and Section 8 Assistance Payments Program.
- Eligibility of Tenants – The same level of assistance shall be provided for Section 8 and HAP with no differential in rent and utilities between the two types of tenants.
- Nondiscrimination Against Section 8 Certificate Holders and Voucher Holders – The District, its successors and assigns, shall not discriminate against Section 8 Certificate and Voucher holders.



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- Enforcement of Covenants – HUD may enforce the covenants under law and equity. Additionally, Section 8 applicants or tenants may enforce covenants related to Section 8 assistance.

Proposals must detail how it complies with each HUD regulation and restriction. If it does not comply, a plan describing what changes to be requested must be included in the offer. HUD compliance will be the Offer's responsibility.

2.2.1 Modified Exceptions and Use Restrictions for Parcel 1

Parcel 1 of the Site, the Eastern Avenue Apartments property, is subject to certain sale and use restrictions described in the said Special Warranty Deed, dated September 17, 1996, recorded in the land records of the District of Columbia as Instrument No. 9600058416, and the related Contract of Sale, dated December 7, 1994, as may be amended to allow the development of “for sale” housing units. HUD and the District shall amend the Special Warranty Deed and include a Rider, to be recorded in the land records of the District, which shall allow the District's selected Offeror to sell individual housing constructed on Parcel 1 in accordance with such restrictions described in the Special Warranty Deed and any amendments thereto. Those restrictions may be covered by a Developer executed Declaration of Covenants, which may encumber Parcel 1 for a period of not less than fifteen (15) years, in a manner approved by HUD, from the date of an initial purchase of any housing units. To further ensure full compliance and satisfaction of the HUD imposed covenants, affecting Parcel 1, the District may require the Developer to execute, at closing on the Site, a covenant in favor of the District and HUD, if desired by HUD to ensure compliance with any HUD required covenants and restrictions. Consequently, all individual homebuyers of housing units constructed on Parcel 1 shall be required to acknowledge and accept all restrictions and covenants for the prescribed period, which such acceptance may be evidenced by a homebuyer executed Declaration of Covenants as approved by HUD.¹

2.3 Development Plan Preferences

2.3.1 Offerors should submit with their offers a development plan and conceptual design drawings that are sufficient in detail to be evaluated by the Selection Panel.

2.3.2 Offerors are invited to submit more than one development plan and pricing proposal, which collectively shall be considered a single offer for evaluation purposes, in addition to the two required development scenarios to be submitted. .

2.3.3 Offerors shall consider all applicable Federal and District laws when preparing their development plans. In addition, development plans shall include Nehemiah Homes and take

¹The amendment/modification of the said Special Warranty Deed, the Rider and the mentioned Declaration of Covenants shall be available prior to the transfer of the Site under this Solicitation.



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into consideration and build upon the goals of the New Communities Initiative, the Deanwood Plan, and the Lincoln Heights Master Plan.

The following highlights a few of these goals:

- a. Create mixed-income housing that places realistic demands on area infrastructure (including parking)
- b. Provide buildings and structures that present a safe environment for residents and neighbors, including an appropriate amount of public open space designed to maximize mobility, visibility, safety, and community-building
- c. Provide an appropriate amount of neighborhood and street-level retail to accompany active, public open spaces
- d. Create the opportunity for replacement housing units for existing Lincoln Heights and Richardson Dwellings residents
- e. Incorporate Universal Design principles into accessible housing and public spaces for seniors and disabled persons
- f. Develop relationships with case management and other social service providers to ensure that residents meet self-sufficiency goals over time
- g. Provide homeownership opportunities for families earning between \$25,000 and \$75,000 annually

2.3.4 Specifically with regard to Parcel 1, the District must share the selected Offeror's conceptual design drawings with the U.S. Department of Housing and Urban Development for approval due to the covenants running with the site.

The District makes no representations or warranties about the accuracy or the correctness of the information or assumptions contained in Section 2.4 of this Solicitation. By submitting offers to this Solicitation, Offerors will be deemed to have waived any claims and have released the District from any liability that may arise in relation to its conceptual design drawings, documents and interpretation and recollection of HUD's property/land covenants.

2.3.5 Preference will be given to offerers who maximize the development footprint by including additional parcels of land to the project. Evidence that the offerer possesses site control of the parcels must be included with the response to this solicitation.

2.3.6 Developers are encouraged to provide a mixture of residential unit types and sizes. The development plans shall include a mixture of one bedroom, two bedroom and, if achievable, three bedroom units. The Offeror is encouraged to be creative in planning for *family-sized* units.



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Residential units oriented to senior citizens are considered an eligible residential use and must conform to the affordability standards for other types of residential units. Each team should use the most up-to-date Department of Housing and Urban Development (HUD) income data.

2.4 Local, Community, Business and LSDBE Preferences

2.4.1 Submit detailed apprenticeship programs that facilitate placing existing Ward 7 residents into employment opportunities within the Project. The commitment and strategy to develop and implement a local apprenticeship program shall be in accordance with D.C. Official Code §§ 32-1401 *et seq.* For more information on the District's Department of Employment Services (DOES) apprenticeship program, please visit the website below or contact DOES Office of Apprenticeship Information and Training.

<http://www.does.dc.gov/does/cwp/view,a,1232,q,618747.asp>

2.4.2 Include Ward 7 neighborhood-based businesses. Evidence of the inclusion of such businesses shall be in the form of written confirmation from such neighborhood-based businesses which shall include the scope and details of the said businesses' involvement in the Project.

2.4.3 Include copies of each binding Letter of Intent (LOI) between the lead developer and an LSDBE equity partner(s) and an LSDBE development partner(s).

2.4.4 Include an LSDBE architect(s) on the development team and include copies of binding LOIs between the lead developer and the LSDBE architect(s).

2.5 Pricing Proposal Preferences

Preference will be given to offers that include a pricing proposal that provides the greatest economic benefit to the District. Preference will be given to Offerors who provide documentation for funding commitments, who have a significant amount of capital "at risk" during the pre-development and development process and who seek the least amount of subsidy. Preference will be given to Offerors who include outside financing sources in their development proforma and budget.

Each Responsive Offer shall contain a funding plan that includes a detailed development budget for the proposed development plan(s) that includes proposed sources and uses of funds. For each source of funds, the Offeror should include documentation validating that the proposed source of funds is committed for this project and timing for when those funds will be contributed. An Offeror shall not include funds from the District



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operating or capital budget (unless appropriated for such purpose on a multi-year basis) or unidentified Federal funding in its funding plan.

2.6 Zoning

Offerors should maximize the development envelope of the land. Offerors should review all applicable District of Columbia Zoning regulations while preparing their offers. Please refer to Title 11 of the District of Columbia Municipal Regulations (“DCMR”) for a complete list of zoning provisions and requirements. Offerors may elect to develop the properties to conform to the existing zoning designation or to apply for a zoning variance, special exception or Planned Unit Development (PUD). An Offeror should detail its zoning strategy and present an estimated schedule that fully describes each step in the approval process necessary for the entitlements assumed in the offer. Proposed zoning strategy should not be inconsistent with the Comprehensive Plan and/or the relevant Small Area Plans.

Preference will be given to Offerors who maximize the zoning potential for the site.

Additional information regarding existing zoning and pending changes may be obtained from the Office of Planning (<http://planning.dc.gov/planning>).

2.7 Property Conditions and Stakeholder Concerns

The two District controlled properties will be conveyed (either through sale or ground lease) in “as-is” condition, without warranty by the District as to physical condition of the land or structures. The District makes no representations regarding the character or extent of soil or subsurface conditions or the conditions and existence of utilities that may be encountered during the course of any redevelopment. Each Offeror should draw its own conclusions concerning conditions that may affect the method or cost of redevelopment. In furtherance of the same, Offerors shall not solely rely on the conceptual design drawings and documents attached to or referenced in this Solicitation and will be expected to conduct their own due diligence.

Offerors shall be responsible for all related pre-development (including any demolition of existing improvements, due diligence studies and other site preparations).

Offerors must take into consideration several different stakeholder groups and their individual concerns and requirements in developing their proposal.



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2.8 District Government Contact

Offerors may contact the following ODMPED representative **via email only** for additional information on the Deputy Mayor's goals and requirements on or before pre-offer conference and site visit:

Yohance Fuller
Project Manager
Office of the Deputy Mayor for
Planning and Economic Development
2025 M Street NW, Suite #600
Washington, DC 20036
yohance.fuller@dc.gov

3 SUBMISSION REQUIREMENTS AND SELECTION PROCEDURES

3.1 Developer Submissions

3.1.1 A pre-proposal conference on xxx in accordance with the schedule in Section 3.6. Attendance at the pre-proposal conference is mandatory. The purpose of this conference is to provide a forum for all concerned parties to discuss the proposed project and to address questions on the design and construction criteria as well as for other relevant issues. In the event that any discussions or questions at the pre-proposal conference require, in ODMPED's sole opinion, official additions, deletions, or clarifications of this Solicitation, or any other document, ODMPED will issue a written summary of questions and answers or an addendum to this Solicitation as ODMPED determines is appropriate.

3.1.2 Responsive Offers shall include the following minimum requirements:

- (i) A comprehensive and detailed development plan (including concept drawings)
- (ii) A pricing proposal, including detailed proforma, budget and schedule
- (iii) Information requested in Section 3.2.



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Offers submitted without inclusion of the aforementioned items will be deemed non-responsive and may be rejected in accordance with this Section 3.1.2. Responsive Offers shall be prepared on standard 8½" x 11" letter-size paper, bound on the long side, with material on one side only and tabs to separate sections. No offer materials will be returned. An Offeror must submit **ten (10) printed copies** of its Responsive Offer to:

David Jannarone
Director of Development
Office of Deputy Mayor
for Planning and Economic Development
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 317
Washington, D.C. 20004

All responses are due by 4:00 PM on December 1, 2008

3.1.3 While the District, through its ODMPED, may enter into negotiations with one or more Offerors based on offers submitted in response to this Solicitation, this Solicitation does **not** commit ODMPED or the District to select any Offerors or to enter into negotiations with any Offerors that may respond. The District reserves the right to reject any offer it deems incomplete or unresponsive to the submission requirements, to amend this Solicitation or to reject all offers and re-issue a Solicitation at a later date at its sole discretion.

3.1.4 After review of one or more offers, the District may request submission of additional information from some or all of the Offerors, within the District's sole discretion.

3.1.5 Team members may participate in submissions from more than one Offeror. If an Offeror wishes to change the composition of the proposed development team at any time in the selection process after it has submitted its offer to the District, the Offeror must notify the District in writing. The District reserves the right to evaluate the proposed change to the development team and eliminate the Offeror from further consideration. The District will require similar notification and approval rights of any change to the development team following award.

3.2 Submission Requirements

Offerors shall respond to each item included in this Section 3.2 in the order it is presented below and separate each item with tabs marked to indicate the section number. Offerors should include site plans, tables, charts, and any other applicable documents, to the extent possible.



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A. Summary. The Offeror shall provide a summary with a focus on the Offeror's vision for the project. While the Summary will not be a formal evaluation factor, it will be used as part of an integrated assessment of the Offeror's qualifications. In its summary, Offeror shall address how the development will benefit the community, Offeror's vision for the design, and synergies with surrounding area and development.

B. Team Members. The Offeror shall identify the following key team members of the development team: master developer (firm or joint venture partners), Certified Business Enterprise ("CBE") equity and development participants as provided in Section 3.2(E), master plan architect, financing team (proposed construction and permanent lenders, major investors, and other key consultants, if any related to the financing plan), and legal counsel. No other team members should be identified. For each team member, Offeror shall identify:

1. Name, address, telephone number, and fax number of each team member, including the identity of each principal, partner, or entity that composes such team member, and such team member's roles or titles within the entity comprising the Offeror.
2. Name, address, telephone number, fax number, and e-mail address of the representative authorized to act on behalf of the Offeror, who will be available to respond to questions or requests for additional information.
3. Identification of any affiliation or other relationship between any of the members of the Offeror and any development company, parent company, or subsidiary.
4. Identification of any personal or professional relationship among or between any members of the Offeror and any person working for, appointed to a position in, or elected to an office of the District or any entity for which there may be a conflict of interest or the appearance of a conflict. The District, in its sole discretion, reserves the right to determine a conflict of interest or the appearance thereof.
5. A list of the professionals the Offeror will be employing or retaining for this project. For each professional firm, Offeror should include a description of the staff capabilities, the resumes of all professional staff who will be working on this project, a description of their role on this project, and their past relevant experience.
6. Satisfactory evidence with respect to the Offeror and its team members that all tax liabilities and other government impositions are current and that there is no ongoing litigation in which the District is a party that relates to any team member as the Offeror or to any other entity or individual having a controlling interest in the entity (or entities) that comprise the Offeror (or, if such litigation exists, the name and civil



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action number of such litigation and a description of the subject matter of such litigation).

7. Summary of experience of Offeror or its team members partnering with community groups, institutions, or the District during the planning and redevelopment of a community and experience of team members in developing public or Federally subsidized housing, including a description of the project, the community partnerships and the actions taken to include the community's input.

C. Qualifications and Experience.

Offeror shall identify:

1. Three (3) to five (5) relevant projects, with which Offeror or its team members have had primary involvement, which demonstrate success in medium and large-scale urban mixed-use, mixed-income residential development projects and public-private development partnerships. Offeror should include and District will give preference to projects completed in Washington, D.C.

For each relevant project, Offer shall identify the following:

- a. Development team name
- b. Project title
- c. Location/address of the project
- d. Contracting agency/company, if applicable
- e. Description of the project, including use, number of residential units and total square footage
- f. Offeror's role/responsibilities for the project and structure of the development team, including joint venture description and/or documents, if applicable
- g. Period of performance
- h. Estimated total development cost at time of award or start of the Project
- i. Actual total development cost, including all changes and exercised options
- j. Original completion date
- k. Current or actual completion date



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- l. The name and contact information for the owner, the principal, the partner, the general contractor and design architect's name and a description of each of the foregoing parties' role in the project
 - m. Name and telephone number of persons familiar with the project who may respond to inquiries from the District
 - n. Illustrative materials that will help the District to evaluate the caliber, innovation and relevant experience of the development team
2. Projects, with which Offeror or its team members have had primary involvement, that involve CBE/Local Small Disadvantaged Business Enterprise ("LSDBE") joint ventures, partnerships, and/or CBE/LSDBE equity participation, including details of the levels of participation and deal structure.
3. For Offeror and financial/equity partners, include all projects underway, indicating for each project, the status (% completed to date), size and scope, cost, developer equity, financial guarantees, and the role of developer or financial equity partner.
4. An organizational chart and a summary of qualifications of the team's senior-level staff who will be working on this project, including a description of their roles and relevant experience.
5. Status of the Offeror organization (whether a corporation, a non-profit or charitable institution, a partnership, a limited liability corporation, a business association, or a joint venture) indicating under which laws it is organized and operating, and a brief history of the organization and its principals. For any entity required to file reports in the jurisdiction of its formation, include a certificate of good standing for such jurisdiction and a certificate of good standing showing that it is registered in the District of Columbia.
6. A copy of any written agreement or document creating any entity responding to this Solicitation. The principals, partners, or joint-venture partners who are part of the Offeror team must be eligible to transact business with the District of Columbia and in the District of Columbia.
7. A statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts of Offeror or any member of the development team.
8. A list of references for the Offeror and its team members, including names, addresses, and telephone numbers. Referenced should be prepared to respond to inquiries regarding the design, financing, and development of prior projects.



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9. Such other information Offeror believes will assist the District in evaluating the capabilities of the Offeror, the design architect, and any other team member who will be participating in the development. The District may request additional information from the authorized representatives, if deemed necessary, to facilitate the consideration of the Offeror's submissions.

D. Implementation Strategy. Offeror shall identify and describe:

1. Any possible enhancements to the Master Plan or perceived difficulties implementing the proposed uses as outlined and possible solutions for the perceived difficulties, which may involve providing an alternative mix of uses and/or users (including percentage of residential, public, and retail uses and square footage for each use) or a specific description of a preliminary retail program, if applicable.
2. The compatibility of the proposed development and design objectives outlined above with the Deanwood Plan, Lincoln Heights Master Plan and the New Communities Initiative objectives. Include a description of the development plan's implications for the District's affordable housing needs and other economic development objectives. Also provide a description of the development plan's incorporation of human capital priorities (economic opportunity, education and recreation, community health and mental health, community safety and law enforcement and amenities for seniors) into the design, redevelopment and ongoing management of the property.
3. Any required zoning changes and/or approvals, and proposed schedule of obtaining the required approvals.
4. Offeror's perception of the market within the Lincoln Heights Planning Area and the Deanwood neighborhood.
5. Offeror's plan to guarantee the implementation of the development plan, including demonstrating Offeror's willingness to assume the risk of pre-development work; describing Offeror's phasing plan for the redevelopment; describing Offeror's timetable and milestones for the next 24 months, including ability to mobilize and commence development programming immediately upon selection; describing Offeror's time and financial commitment to guarantee to the District that Offeror's milestones will be met; describing Offeror's property rights on parcels within the Lincoln Heights and Richardson Dwellings Planning Area, if any; and describing Offeror's approach and strategies to working with the community to ensure meaningful involvement in the development process and mitigation of any negative impact of the potential development project on the surrounding community.



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E. Financial Capacity and Framework.

Offeror shall include the following:

1. Letter of credit in the amount of \$20,000. This amount will be deposited in escrow and returned if Offeror is not selected.
2. A description of the financial capacity of Offeror and its team members, including, but not limited to, annual reports, balance sheets, profit and loss statements, evidence of letter of credit and lines of credit, and any such other material financial statements.
3. A description of the nature and share of each team member's financial investment in the acquisition and redevelopment of the property.
4. A proposed financial structure between Offeror and the District. The Offeror should assume the following:
 - a. The parcel owned by the District will be sold to Offeror at a price negotiated with the District. In general, the parcel purchase price should be assumed to be equal to the fair market value of the parcel, reduced, if necessary, by the amount necessary to make the proposed development for the site economically feasible.
 - b. In determining economic feasibility, Offeror shall take into account all available subsidies from other sources outside the District government and shall seek such other subsidies to the greatest extent possible.
 - c. If a reduction in sales price of the subject property is not sufficient to make the proposed development economically feasible, the negotiated sales price may take into account subsidy from the federal government, District government agencies, tax credits or other sources.
 - d. Offeror may propose that the District retain ownership of the parcels and lease the parcel to Offeror. In such case, the cost of the ground lease will be negotiated using the same approach as the sales price negotiation described above.
 - e. Offeror may propose either a fixed price or base price plus contingent payments to the District.



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- f. Offeror may propose that the purchase price or ground rent be paid either as a lump sum or over time.
- 5. A description of:
 - a. Desired financial returns, including the internal rate of return for each proposed land use
 - b. Proposed investment of Offeror equity into the project
 - c. If a base price plus contingent payment is proposed, the methodology for determining the base price and the proposed structure of contingent payments
 - d. If leases are proposed, the methodology for determining the ground rent payment amount needed to ensure project financial feasibility
 - e. If deferred payment of purchase price is proposed, (i) the methodology for determining the amount of future payments and (ii) the security provided to the District for such future payments
- 6. A proposed financing strategy for the overall proposed redevelopment, including a listing of all anticipated sources of construction and permanent financing. Offeror should provide sufficient detail for the District to determine the feasibility of the proposed financing plan, including:
 - a. An estimate of proposed pre-development costs and statement of capacity to carry those costs, how those costs will be paid for and how such costs will be factored into the financing of the project;
 - b. Statement of the proposed financial structure, including penalties for lack of performance;
 - c. Satisfactory evidence of the Offeror's ability to secure financing for the project; And,
 - d. Specifics as to the sequencing of the development process including the proposed sources and uses of funds (submitted on CD in Excel), including the timing of the funding commitments to the project.



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7. Functional pro forma model(s) with detailed underlying assumptions (submitted on CD in Excel) that calculates the internal rate of return, return on equity and return on cost.
8. Detailed development budget (submitted on CD in Excel) for the proposed development plan(s) that includes a summary of the dollar per square foot breakdown of each line item.
9. Proposed schedule of performance that details each step in the development process starting from submission of the offer to final construction completion.

F. Certified Business Enterprise (“CBE”) Participation and First Source Hiring.

Offeror shall include the following:

1. A description of CBE equity and development participation in the project sufficient to demonstrate Offeror's firm commitment to meet or exceed a 20% CBE equity participation and 20% CBE development participation requirement. The Offeror must submit with its offer a Letter of Intent, Memorandum of Understanding or other binding agreement with the 20% CBE equity and development partner(s) that at a minimum:
 - a. Identifies the CBE equity and development partner(s)
 - b. States the percentage of equity and development participation of each CBE partner
 - c. Describes the role and scope of work of each CBE partner
 - d. Includes anti-dilution language regarding equity and development participation for the benefit of the CBE partner(s) and to be applied at all stages of the project

Any offer that fails to contain a Letter of Intent, Memorandum of Understanding or other binding agreement with the 20% CBE equity and development partner(s) will be deemed a non-responsive offer.

2. A description of CBE contracting participation in the project sufficient to demonstrate Offeror's commitment to meet or exceed a 40% CBE contracting and procurement requirement, with no less than 20% of the contracts and procurements to be awarded to contractors certified as Small Business Enterprises, Disadvantaged Business Enterprises and/or Resident-owned Business Enterprises. Prior to and as



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a condition of execution of the land disposition and development agreement, the selected Offeror will be required to sign a Certified Business Enterprise Utilization and Participation Agreement with the D.C. Department of Small and Local Business Development that outlines the specific contracting requirements and the specific efforts the selected Offeror must make to fulfill these requirements.

3. A description of the specific plan to recruit District of Columbia residents for newly created jobs. The selected Offeror will be required to sign a First Source Hiring Agreement with the D.C. Department of Employment Services.

3.3 Selection Process and Evaluation Team

3.3.1 The ODMPED will determine in its sole discretion whether each offer received in response to this Solicitation is a Responsive Offer. For any offer that is considered to be non-responsive, the Offeror will be notified in writing within ten (10) business days after the submission deadline. The decision of ODMPED in this regard is final and will be explained to the Offeror upon request.

3.3.2 A community meeting will be conducted during which the Offerors will present their Responsive Offers to the public and the public may provide feedback to the Selection Panel for its consideration. Since engaging the Lincoln Heights and Richardson Dwellings New Communities Initiative Advisory Council in 2005, ODMPED, other District agencies and a variety of consultants have been meeting with the Advisory Council, residents and other stakeholders. Throughout the development process, the selected Offeror will be responsible for reviewing and discussing progress on various elements of implementing the project with the community and the Lincoln Heights and Richardson Dwellings New Communities Initiative Advisory Council.

3.3.3 A Selection Panel will be established to review and evaluate the Responsive Offers and to select one or more of the Responsive Offers. The Selection Panel will consist of at least three (3) members from among ODMPED, the Department of Housing and Community Development (DHCD), and/or the Office of Planning. In addition, the Selection Panel may consult with ODMPED consultants for technical assistance.

3.3.4 Within fifteen (15) days after the Community Meeting, the Offerors shall present their Responsive Offers to the Selection Panel. The Selection Panel will evaluate each Responsive Offer taking into account the information requested in this Solicitation, the goals of the New Communities Initiative, the Deanwood Plan, the Lincoln Heights Master Plan, the New Communities Initiative Criteria and the best interests of the District and the Lincoln Heights and Richardson Dwellings communities. The Selection Panel may request that one or more Offerors modify their Offers, provide additional information or provide a “best and final offer” for the Selection Panel’s review. Following any such request, the Selection Panel will select, in its sole and absolute discretion, one or more Responsive



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Offers, as modified or otherwise, to recommend to the Mayor, who, in his absolute discretion, may accept the Selection Panel's recommendations.

3.3.5 Upon recommendation by the Selection Panel, and if selected by the Mayor, ODMPED shall notify the selected Offeror(s).

3.3.6 The District will evaluate responses to this Solicitation for completeness, feasibility, innovation, and the strength of the financial proposal.

The District is particularly interested in identifying Offerors with a world-class, feasible project vision and the qualifications and experience to execute that vision.

Preference will be given to Offerors who achieve the following:

- Provide additional benefits to the District by adding property and/or scope to the project to increase the community impact
- Exceed the "depth" of affordability indicated above and/or introduce creative affordable housing programs into the deal
- Assemble development teams comprised of either Ward 7 based or LSDBE developers, contractors, and/or equity partners
- Ensure ample benefits accrue to Ward 7 residents and businesses, and the surrounding community
- Creation of *family-sized* residential units
- Offer Highest value offered to the District of Columbia
- Offer the highest and best use of land.

3.4 Project Review

Required design review meetings will be scheduled after selection between the Selection Panel and the selected Offeror(s) and its consultants. In addition, the selected Offeror(s) must arrange and participate in at least one community forum held in the vicinity of the project site prior to Offeror's preparations of final building permit drawings. During the duration of the redevelopment, the selected Offeror will also be expected to participate in periodic meetings with the community to provide updates on the progress of the development and to respond to questions from the community.



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3.5 Conflict of Interest

In its response to this Solicitation, Offeror should represent and warrant the following to the District:

1. The Offer has been developed and provided independently and without consultation, communication or other interaction with any other competitor for the purpose of restricting competition related to this Solicitation or otherwise.
2. No person or entity employed by the District or otherwise involved in preparing this Solicitation on behalf of the District (i) has provided any information to Offeror which was not also available to all entities responding to this Solicitation, (ii) is affiliated with or employed by Offeror or has any financial interest in Offeror, (iii) has provided any assistance to Offeror in responding to this Solicitation, or (iv) will benefit financially if Offeror is selected in response to this Solicitation.
3. The Offeror has not offered or given to any District officer or employee any gratuity or anything of value intended to obtain favorable treatment under this Solicitation or any other solicitation or other contract, and Offeror has not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees. Offeror has not and shall not offer, give or agree to give anything of value either to the District or any of its employees, agents, job shoppers, consultants, managers or other person or firm representing the District, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing. Any such conduct shall be deemed a violation of this Solicitation. As used herein, "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by this Solicitation, if any, or any other contract with the District), etc., which might tend to obligate a District employee to Offeror, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include work or services rendered pursuant to any other valid District contract.
4. The Offeror shall report to the District directly and without undue delay any information concerning conduct which may involve: (a) corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority; or (b) any solicitation of money, goods, requests for future employment or benefit of thing of value, by or on behalf of any government employee, officer or public official, any Offeror employee, officer, agent, subcontractor, or labor official, or other person for any purpose which may be related to the procurement of this Solicitation by Offeror, or which may affect performance in response to this Solicitation in any way.



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5. Neither Offeror or any subcontractor or affiliate thereof, nor any employee of any of them, shall retain any material or items of any kind salvaged from the property at issue in this Solicitation as memorabilia or souvenirs or otherwise.

3.6 Timetable

The selection process will follow the timetable below:

SELECTION PROCESS TIMETABLE (SUBJECT TO CHANGE)	
Issuance of Solicitation	October 2008
Pre-Offer Conference and Site Visit	Within 20 Business Days after Solicitation Issuance
Proposal Due Date (at 4:00 PM ET)	Monday, December 01, 2008
ODMPED Determination of Responsive Offers	Friday, December 05, 2008
Community Meeting	Monday, December 08, 2008
Notice of Best and Final Offers (If Needed)	Friday, December 19, 2008
Offerors' Presentations to Selection Panel	Thursday, January 08, 2009
Selection of Offeror	Monday, January 19, 2009

3.7 Pre-offer Conference, Questions and Further Information

Any questions regarding this Solicitation should be submitted via e-mail to yohance.fuller@dc.gov. Questions will be accepted until 4:00 p.m. on the date of the pre-offer conference. Offerors shall not direct questions to any other person affiliated directly or indirectly with the District except as allowed elsewhere in this Solicitation. Responses to Offeror questions will be emailed to all Offerors.

A pre-offer conference will be held approximately 20 days after the issuance of the Solicitation.

3.8 Award

3.8.1 Following receipt of notification from the District of the selection ("Selection Notification"), the selected Offeror(s) shall execute a right of entry permit with the District to allow the selected Offeror(s) to begin its (their) due diligence and site studies.

3.8.2 The District, through ODMPED, and the selected Offeror shall negotiate a land disposition and development agreement, which shall incorporate the requirements contained in this Solicitation and such other terms as agreed to by ODMPED and the selected Offeror(s). Upon completion of the parties' negotiation, ODMPED will recommend such



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Offeror, and upon the terms of the proposed land disposition and development agreement to the Mayor. If the Mayor agrees with ODMPED's recommendation, then the Mayor, in his sole and absolute discretion, may submit the proposed land disposition and development agreement to the Council of the District of Columbia ("Council") as the method of disposition of the property to the Offeror. In accordance with D.C. Official Code § 10-801 (2006 Supp.), the District is not authorized to dispose of the property unless and until first authorized by the Council.

3.8.3 If the District and the selected Offeror(s) are unable to agree on the final terms of a land disposition and development agreement within 90 days after the date of the Selection Notification, ODMPED, in its sole and absolute discretion, may terminate negotiations and select a different Offeror from among the Offerors who submitted offers, re-issue this Solicitation or take such other measures as it deems reasonable, appropriate or necessary.

3.8.4 Once approved by Council, the District and the selected Offeror shall execute the proposed land disposition and development agreement, whereupon Offeror shall submit to the District a deposit in the amount of \$50,000, in the form of a letter of credit. The deposit shall secure Offeror's performance in accordance with the land disposition and development agreement and will be held by the District through Offeror's successful completion of construction of the project. The District may request Offeror to increase the amount of the letter of credit or submit an additional deposit at the time of settlement on the District's transfer to further ensure Offeror's successful completion of construction of the project. A performance guaranty, which will guaranty completion of the project from the members or owners of the Offeror, may also be required.

3.8.5 In the event the disposition of the properties is through a sale, settlement on the District's sale to Offeror shall be held no later than 12 months after the date of execution of the land disposition and development agreement; provided, however, that settlement shall not be held until Offeror has received design review approval from the District and has obtained all permits required under Section 105A of Title 12A of the DCMR to commence construction (and such other conditions as may be agreed between the parties).

4. RESERVATION OF RIGHTS AND MISCELLANEOUS PROVISIONS

4.1 The District reserves the right to:

- a. Cancel or withdraw the Solicitation prior to or after the submission deadline
- b. Modify or issue clarifications to the Solicitation prior to the submission deadline
- c. Reject any submission it deems incomplete or unresponsive to the submission requirements



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- d. Consider a submission that is in noncompliance with the submission requirements
- e. Reject all submissions that are submitted under the Solicitation
- f. Modify the deadline for submissions or other actions

The District may exercise one or more of these rights, in its sole discretion, as it may deem necessary, appropriate, or beneficial to the District.

4.2 Notice of Modifications

The District may post on its website (<http://dcbiz.dc.gov>) notices or information regarding cancellations, withdrawals, modifications to deadlines, and other modifications to this Solicitation. Offerors shall have an obligation to check the website for any such notices and information, and the District shall have no duty to provide direct notice to Offerors.

4.3 Changes in Offeror Information

If information provided in a submission changes (e.g., change or addition to any of the Offeror's team members or new financial information), the Offeror shall provide updated information in the same format for the appropriate section of the Solicitation and the District may consider the modified submission.

Developer teams may not change the composition of its team at any time without prior District approval, in its sole discretion, provided, however, that nothing shall prohibit short-listed developer teams from (i) adding new CBE parties to their teams or (ii) increasing the level of CBE equity participation on their teams.

4.4 Ownership and Use of Offers

All offers shall be the property of the District. The District may use any and all ideas in any offer, whether the offer is selected or rejected.

4.5 Restricted Communications

Upon release of this Solicitation and until selection of an Offeror, Offerors shall not communicate with ODMPED staff about the Solicitation or issues related to the Solicitation except as authorized in this Solicitation.

4.6 Non-Binding



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The selection by the District of a Offeror indicates only an intent by the District to negotiate with the Offeror and the selection does not (i) constitute a commitment by the District to execute any agreement with the Offeror and (ii) confer onto Offeror any property right, interest or expectancy.

4.7 Confidentiality

Offers and all other information submitted in response to this Solicitation are subject to the District's Freedom of Information Act (D.C. Official Code § 2-531 et seq.) ("FOIA"), which generally mandates the disclosure of documents in the possession of the District upon the request of any person, unless the content of the document falls within a specific exemption category. An example of an exemption category is "trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained."

If an Offeror provides information that it believes is exempt from mandatory disclosure under FOIA ("exempt information"), the Offeror shall include the following legend on the title page of the submission:

**THIS PROPOSAL CONTAINS INFORMATION THAT IS EXEMPT
FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S
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In addition, on each page that contains information that the Offeror believes is exempt from mandatory disclosure under FOIA, the Offeror shall include the following separate legend:

**THIS PAGE CONTAINS INFORMATION THAT IS EXEMPT FROM
MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF
INFORMATION ACT**

On each such page, the Offeror shall also specify the exempt information and shall state the exemption category within which it believes the information falls.

Although ODMPED will generally endeavor not to disclose information designated by the Offeror as exempt information, ODMPED will independently determine whether the information designated by the Offeror is exempt from mandatory disclosure. Moreover, exempt information may be disclosed by ODMPED, at its discretion, unless otherwise prohibited by law, and the District shall have no liability related to such disclosure.



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4.8 Non-Liability

By participating in the Solicitation process, the Offeror agrees to hold the District, its officers, employees, agents, representatives, and consultants harmless from all claims, liabilities, and costs related to all aspects of this Solicitation.

4.9 Other Limiting Conditions

- If at any time after the District selects an Offeror and executes a land disposition and development agreement, the Offeror decides not to proceed, the Offeror must notify the District in writing and give the reasons for its decision. The selected Offeror wishing to withdraw may be subject to the loss of part or all of the deposit posted at the time of award and may be responsible for certain costs previously waived by the District. If the District is unable to deliver the subject property or its contribution to any joint venture, all deposits and any interest earned will be returned to Offeror and District shall be released from any and all further liability.
- This project is expected to “stand alone”; thus, the Offeror is prohibited from cross collateralizing and cross defaulting the project with any other assets. Moreover, the Offeror is prohibited from assigning, pledging, hypothecating or otherwise transferring its interest in the net cash flows or ownership of the project in part, or in its entirety, without prior District approval. Any additional debt shall require prior written District approval.
- The Offeror shall disclose all construction management asset/property management, and other fees that are accrued or paid to the developer or affiliated parties during the life of this project.
- By participating in the solicitation process, the Offeror agrees to hold the District, its officers, employees, agents, representatives and consultants harmless from all claims, liabilities and costs related to all aspects of this Solicitation. Under no circumstances shall the District be liable for any real estate brokerage commissions, finder’s fees or other forms of compensation related in any way to activities undertaken by any person as a result of this Solicitation. Failure to timely and properly acknowledge receipt of all material amendments may be cause for rejection of an offer.
- The District has the right to begin negotiations with the next preferred Offeror in the event that a land disposition and development agreement cannot be executed within the allotted period of negotiations with a prior selected Offeror. The District may terminate such negotiations if the Offeror introduces comments or changes to a land disposition and development agreement that are inconsistent with previously submitted offer materials.



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- The District fully expects and requires that the selected Offeror will not alter the development program, including its proposed construction schedule and process. However, should certain deteriorating market conditions warrant a program alteration, the District, in its sole discretion, may authorize such an alteration. As a general matter, the District will consider such alterations, if it believes these deteriorating market conditions would have negatively impacted all other Offerors that submitted offers in response to this Solicitation.
- The District reserves the right to memorialize modifications to any proposal in a Memorandum of Understanding between the District and Offeror where such modifications arise in the course of best and final negotiations between the parties.
- Offerors are hereby advised that the District is subject to various laws, rules, policies and agreements that impose ethical constraints upon, among other situations: (i) current District employees and consultants with respect to Offerors (and members of their teams) on projects where such employee/consultant had “personal and substantial” participation or official responsibilities and (ii) current and former District employees and consultants with respect to post-employment restrictions. Please be further advised that:
 - (a) Members of Offerors (whether corporate or individual) are prohibited from conducting any negotiations for employment or consulting agreements (or other forms of financial benefits) with current employees/consultants the District who are “personally and substantially” participating on this project or from hiring any such employees/consultants, during the conduct of this competition and, in the case of the selected Offeror, subsequent development of this project.
 - (b) Members of Offerors (whether corporate or individual) must disclose in their initial offers the names of employees (or consultants retained for this project) who within the immediate past three years were District employees/consultants. On a going forward basis, members of Offerors will be required to provide the District with notice of updates within 5 days of any new hires/retained consultants
 - (c) Failure to comply with either of these obligations may result, in the District’s sole discretion, in the disqualification by Offeror from the competition or rescission of a selection or agreement with the District.
 - (d) Offerors must immediately disclose the existence of any employment discussions or consulting agreements with or hiring of current District



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employees that occur contrary to the prohibition in (a) or (b) above. Notwithstanding such disclosure, the District reserves the right to disqualify or rescind award to a company whose member(s) have violated (a) above.